

AMENDED IN SENATE JANUARY 22, 2008

AMENDED IN SENATE JANUARY 7, 2008

SENATE BILL

No. 628

Introduced by Senator Correa

February 22, 2007

An act to add *and repeal* Chapter 8.5 (commencing with Section 13875) ~~to~~ of Title 6 of Part 4 of the Penal Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

SB 628, as amended, Correa. Controlled substances.

Existing law provides various programs for crime prevention and the prosecution of criminal offenses.

This bill would establish ~~through the Department of Finance~~ a program of financial and technical assistance for ~~specified up to 10~~ counties, upon their application, to provide district attorneys or county sheriffs with funds to coordinate multiagency drug endangered child response teams for the purpose of responding promptly to cases involving drug endangered children. *The program would be administered by the Office of Emergency Services, in consultation with the California Health and Human Services Agency.* This bill would ~~also require the agency or agencies designated by the director~~ *the Office of Emergency Services* to make an annual report, to the Legislature on the fiscal and operational status of the program. *The bill would remain in effect until January 1, 2012.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter 8.5 (commencing with Section 13875) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 8.5. CALIFORNIA DRUG ENDANGERED CHILD
PROTECTION ACT

13875. The Legislature finds and declares all of the following:

(a) The clandestine manufacture of methamphetamine and other controlled substances has created a public health and safety crisis for children in California.

An increasing number of children in this state are being abused, neglected, and placed at highest risk of harm or death as a result of their presence in homes or dwellings involved in clandestine drug production and distribution. In 1999, more than 1,200 children were found in 2,400 clandestine laboratories seized by California law enforcement agencies. That same year, the number of drug-related toxic “cleanups” in California reached an all-time high. The actual number of drug endangered children is unknown, since many clandestine home labs are abandoned due to fire or explosion before they become known to authorities.

(b) The response to children discovered in clandestine drug labs varies greatly from county to county. In many cases, the response has been inadequate. Services may be fragmented, and untrained staff can fail to recognize the danger to the child. Without coordinated assessment and intervention, children may be left in or returned to these deadly environments. The Legislature further finds and declares that the Counties of Butte, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Shasta have implemented multiagency response teams consisting of law enforcement, prosecution and health or children’s services, that can respond most effectively to clandestine laboratories in which children are present.

(c) Clandestine laboratories are increasingly operated in single and multifamily homes, garages, apartments, motels, and mobilehomes in urban and suburban neighborhoods. The dangers to children, those in the lab and nearby, are significantly higher in those counties where most clandestine labs are located in residential neighborhoods. The Legislature recognizes the need to provide

1 financial assistance for those counties that have the highest number
2 of clandestine laboratory seizures with children present, and that
3 have implemented multiagency response teams for drug endangered
4 children.

5 (d) The Legislature intends to support the efforts of counties
6 that have implemented a multiagency response to drug endangered
7 children that includes, at a minimum, all of the following:

8 (1) Staffing a multiagency team consisting of law enforcement,
9 prosecution, and health or children's services personnel or both
10 health and children's services personnel, to respond to drug
11 endangered child cases.

12 (2) Coordinating immediate and ongoing medical treatment and
13 family services for drug endangered children under the direction
14 of a child services worker.

15 (3) Vertically prosecuting drug manufacturers and sellers who
16 endanger children.

17 ~~13876. (a) There is hereby established in the agency or~~
18 ~~agencies designated by the Director of Finance pursuant to Section~~
19 ~~13820, a program of technical and financial assistance for counties;~~
20 ~~designated the California Drug Endangered Child Protection Act.~~
21 ~~All funds appropriated to the agency or agencies designated by~~
22 ~~the Director of Finance pursuant to Section 13820 for the purposes~~

23 *13876. The California Drug Endangered Child Protection Act*
24 *is hereby established for the purpose of creating a program of*
25 *technical and financial assistance to counties for the treatment of*
26 *drug endangered children. The Office of Emergency Services, in*
27 *consultation with the California Health and Human Services*
28 *Agency, shall administer this program. All funds appropriated to*
29 *the Office of Emergency Services for the purposes of this chapter*
30 *shall be administered and disbursed by the executive director and*
31 *shall to the greatest extent feasible be coordinated or consolidated*
32 *with federal funds that may be made available for these purposes.*
33 ~~The agency or agencies designated by the Director of Finance~~
34 ~~pursuant to Section 13820- Office of Emergency Services may~~
35 *retain up to 5 percent of the amount appropriated for purposes of*
36 *this chapter to cover costs associated with administering this*
37 *program.*

38 (b) The executive director is authorized to allocate and award
39 funds to counties in which the California Drug Endangered Child

1 Protection Act is implemented in substantial compliance with the
2 policies and criteria set forth in this chapter.

3 (c) The allocation and award of funds shall be made upon
4 application executed by the county's district attorney, or county
5 sheriff, if the sheriff is currently the lead agency in the county's
6 existing drug endangered children program, and approved by its
7 board of supervisors. Funds disbursed under this chapter shall not
8 supplant local funds that would, in the absence of the California
9 Drug Endangered Child Protection Act, be made available to
10 support the functions of this program. The district attorney or
11 county sheriff shall consult with each agency receiving funding
12 as part of the county's drug endangered children program to
13 develop the budget submitted to the ~~agency or agencies designated~~
14 ~~by the Director of Finance pursuant to Section 13820~~ *Office of*
15 *Emergency Services, in consultation with the California Health*
16 *and Human Services Agency* for the purposes of implementing
17 this chapter.

18 (d) Law enforcement, prosecution, health, and children's
19 services personnel working on multiagency teams established
20 pursuant to this chapter shall be considered "multidisciplinary
21 personnel" as defined in Section 18951 of the Welfare and
22 Institutions Code, and may share information necessary for the
23 protection of the minor.

24 13877. District attorneys, or county sheriffs, if the sheriff is
25 currently the lead agency in the county's existing drug endangered
26 children program, receiving funds under this chapter shall
27 coordinate multiagency drug endangered child response teams in
28 cooperation with local, state, and federal law enforcement agencies,
29 and the county departments of health and children's services. Under
30 the direction of the lead agency in the county's existing drug
31 endangered children program, a multiagency team's services shall
32 include, but not be limited to:

33 (a) Prompt, multiagency response to cases involving drug
34 endangered children. Teams shall have the ability to respond
35 quickly at any time, day or night, and to reduce the amount of time
36 children must wait for medical screening, treatment, and other
37 necessary services.

38 (b) Develop, adopt, and regularly review local protocols for the
39 multiagency response to cases involving drug endangered children.

(c) Convene a countywide drug endangered child protection task force, that shall include, but not be limited to, representatives from law enforcement, children's services, a county juvenile court, hospitals and health services, fire and paramedics, education, probation, prosecution, and the Victim-Witness Assistance Program. Each countywide task force shall meet no less than twice yearly to review local protocols and recommend local policies and procedures for the protection, treatment, and continuing care of drug endangered children.

(d) Maintain complete records of each case for documentation and evaluation.

13877.5. The district attorney or county sheriff, if the sheriff is currently the lead agency in the county's existing drug endangered children program, of a county may utilize program funds made available under this section to subcontract for specialized services with local law enforcement or the county departments of health or children's services, if local resources are not sufficient to staff multiagency drug endangered child response teams at the level required in subdivision (a) of Section 13877. Those subcontracts shall be in an amount sufficient to obtain federal matching funds for the services of at least two full-time children's services workers, and shall compensate participating agencies for the reasonable cost of overtime or equipment, or both overtime and equipment, to respond as a multiagency team.

13878. District attorneys receiving funds under this chapter shall concentrate enhanced prosecution efforts and resources upon individuals who endanger children through exposure to the clandestine manufacture of controlled substances, their precursors, and analogs under Sections 11379.6 and 11383 of the Health and Safety Code. Where appropriate, felony child endangerment charges shall be filed in every case under subdivision (a) of Section 273a or special allegations under Section 11379.7 of the Health and Safety Code. Enhanced prosecution efforts and resources under the Drug Endangered Child Protection Act shall include, but not be limited to, all of the following:

(a) "Vertical prosecutorial representation," whereby the prosecutor who makes the initial filing or appearance in a drug endangered child case will perform all subsequent court appearances on that particular case through its conclusion, including the sentencing phase.

(b) Assignment of highly qualified investigators and prosecutors to drug endangered child cases.

(c) Significant reduction of caseloads for investigators and prosecutors assigned to drug endangered child cases.

13879. Commencing one year after the effective date of this chapter, the ~~agency or agencies designated by the Director of Finance pursuant to Section 13820~~ *Office of Emergency Services* shall make an annual report to the Legislature on the fiscal and operational status of the program. This report shall include, at a minimum, an evaluation of the number of clandestine laboratories seized, the number of children located and removed from clandestine laboratories, and the number of prosecutions of individuals involved in the manufacturing and distribution of methamphetamine or other controlled substances manufactured at clandestine laboratories where children are present.

~~13879.5. (a) Available funds may be used by the agency or agencies designated by the Director of Finance pursuant to Section 13820 to fund countywide drug endangered children programs in the Counties of Butte, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Shasta, for the purpose of implementing this chapter.~~

~~(b) (1) The funds available in subdivision (a) that remain after funding the countywide programs specified in subdivision (a) may be distributed to up to five additional counties to fund drug endangered children programs. These funds shall be distributed to counties on a competitive grant basis.~~

13879.5. (a) Available funds may be used by the Office of Emergency Services, in consultation with the California Health and Human Services Agency, to fund countywide drug endangered children programs in up to 10 counties for the purpose of implementing this chapter. These funds shall be distributed on a competitive grant basis.

~~(2)~~

(b) The following factors shall be considered in awarding these grants:

~~(A)~~

(1) Size of the county.

~~(B)~~

(2) Number of clandestine laboratories seized in the county.

~~(C)~~

1 (3) Number of prosecutions brought against clandestine
2 laboratories at which children were found.

3 ~~(D)~~

4 (4) Number of children found at seized or prosecuted clandestine
5 laboratories.

6 ~~(E)~~

7 (5) The demonstrated ability of the county to utilize multiagency
8 emergency response teams to meet the immediate health and safety
9 needs of children found at clandestine drug laboratories, as well
10 as a demonstrated ability to prosecute the individuals operating
11 those laboratories.

12 ~~(3)~~

13 (c) One representative of each local agency involved in
14 implementing a county's drug endangered children program shall
15 form an executive committee, the function of which is to distribute
16 the grant funds awarded the county under subdivision (a) in a fair
17 and equitable manner and for the purposes of implementing this
18 chapter.

19 ~~(4)~~

20 (d) The county health and welfare agencies shall be responsible
21 for coordinating health-related services for children living in
22 clandestine laboratories seized by a county drug endangered
23 children response team pursuant to this program. The county health
24 and welfare agencies shall consult with the district attorney when
25 developing the health services protocols in order to ensure that the
26 health services protocols do not interfere with the law enforcement
27 functions of the drug endangered children response teams.

28 13879.6. *This chapter shall remain in effect only until January*
29 *1, 2012, and as of that date is repealed, unless a later enacted*
30 *statute, that is enacted before January 1, 2012, deletes or extends*
31 *that date.*